99TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
99-520

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JOHN PATRICK BRADY, ANN M. BRADY, AND MARK P. BRADY

APRIL 9, 1986.—Committed to the Committee of the Whole House and ordered to be printed

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Mr. FRANK, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 3154]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3154) for the relief of John Patrick Brady, Ann M. Brady, and Mark P. Brady, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE TO THE BILL

The purpose of the bill is to allow the beneficiaries to maintain nonimmigrant treaty trader status.

STATEMENT OF FACTS

The beneficiaries are 39, 39 and 13 year old natives and citizens of Ireland who first entered the United States in 1971 as treaty traders employed with Aer Lingus and continued in that status until 1981. The principal beneficiary sought to change employment at that time and with the erroneous approval of the Immigration and Naturalization Service accepted a position with Swiss Air which shares certain passenger handling operations for Aer Lingus. When the beneficiaries applied for a visa abroad, the U.S. Embassy in Ireland found them no longer eligible for treaty trader status because they were not associated with an employer of their native country. The beneficiaries were last issued visitor visas March 2, 1984 for entry to the U.S. They have two U.S. citizen children, ages 12 and 6. Mr. Brady earns $30,000 with assets of $170,000.

Although the Committee notes there are few precedents for granting nonimmigrant status by means of private legislation, the

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unique circumstances of this case merit relief. The Committee is convinced that the 17 year employer relationship was served solely on the basis of erroneous advice from the Immigration and Naturalization Service and in order to correct this inequity, the beneficiary should be eligible to retain the status for which he originally qualified.

The pertinent facts in this case are contained in a letter dated January 13, 1986, from the Commissioner of the Immigration and Naturalization Service to the Chairman of the Committee on the Judiciary. That letter and accompanying memorandum read as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, DC, January 13, 1986.

A26 884 595; A26 859 693; A26 859 694.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 3154) for the relief of John Patrick Brady, Ann M. Brady, and Mark P. Brady, there is attached a memorandum of information concerning the beneficiaries.

The bill would provide that the beneficiaries be treated as treaty traders during any period in which John Patrick Brady is employed by Swissair Transport Company, notwithstanding the provisions of the Immigration and Nationality Act which preclude from such classification aliens who are not nationals of the airline's home country.

The beneficiaries are natives and citizens of Ireland.

Sincerely,

For the Commissioner
MARVIN T. ELY
(For Greg Leo, Director, Congressional and Public Affairs).

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE: H.R. 3154

The beneficiary, John Patrick Brady, a native and a citizen of Ireland, was born on May 8, 1947. He resides in Billerica, Massachusetts with his wife and three children. He completed 14 years of schooling in Ireland and computer specialty training with Aer Lingus and Swissair Airlines. He was employed by Aer Lingus as a traffic clerk at Dublin Airport from 1966 to 1971 and as a station agent at Logan Airport, Boston, Massachusetts from 1971 to 1981. He is currently employed as a load/ramp agent with Swissair, Logan Airport, earning about $30,000 a year. Other than his wife and children, the beneficiary has no close relatives living in the United States.

The beneficiary, Ann M. Brady, a native and citizen of Ireland, was born on April 5, 1947. She completed 16 years of schooling in Ireland and received a bachelor's degree in

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English, French and philosophy from the University College in Dublin Ireland. She is not employed. The beneficiaries were married on February 19, 1972 in Dublin, Ireland and they have three chidren, Mark Peter, born on January 23, 1973 in Ireland, Paul John and Niamh Ann, born on October 24, 1974 and April 28, 1980, respectively, in Lynn, Massachusetts. They claim assets of about $170,000 in savings and personal property, and a liability of about $3,000 in an outstanding energy-saving device loan for their residence.

The beneficiary, John Patrick Brady, first arrived in the United States on October 21, 1967 as a visitor for a vacation trip. On April 5, 1971, he entered as a treaty trader on a visa valid until March 18, 1974, which was subsequently extended to February 19, 1984. His nonimmigrant status was for employment with Aer Lingus Airlines at Logan Airport. In 1981, the beneficiary was offered a job with Swissair and, believing he could take the position without losing his status as a treaty trader, on August 23, 1981 he changed employers with authorization from the Immigration Service. On March 2, 1984, the beneficiaries were issued visitor's visas since the treaty trader visa renewal was denied because John Patrick Brady is not of the same nationality as the employer. On March 14, 1984, the beneficiaries were admitted as visitors for pleasure which was changed on that same date to visitors for business. They were authorized to remain in that status until March 13, 1985, a date subsequently extended to March 13, 1986. In the interim, the beneficiary, John Patrick Brady, left for a business trip and was admitted as a visitor for business on November 22, 1985 with authorization to remain in the United States until May 21, 1986.

The beneficiary, John Patrick Brady, has resided continuously in the United States since his entry in 1971, except for occasional business trips of no longer than one month's duration.

The beneficiary, Ann M. Brady, has resided continuously in the United States since May 21, 1971 except for occasional pleasure trips of no longer than one month's duration and a two month trip in December 1972; at that time the beneficiary gave birth to Mark Peter in Ireland on January 23, 1973. She remained in Ireland until February 17, 1973, when she and the baby returned to the United States.

The beneficiary, Mark Peter Brady, has resided continuously in the United States since his original entry on February 17, 1973, except for occasional trips of no longer than one month's duration. He is presently a seventh grade student at the Locke Middle School in Billerica, Massachusetts.

The beneficiary, John Patrick Brady, appears eligible to continue his employment at Swissair on the visitor for business visa even though he is not a national of the country of the airline's home country. However, the benefici-

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aries have indicated that they wish to resume the treaty trader classification they had originally. Mr. Brady wishes to continue work with Swissair in that nonimmigrant status.

On December 10, 1985, the beneficiaries were granted advance parole status with multiple entries and John Patrick Brady was granted employment authorization.

On January 2, 1986, the Department of State submitted a report on this bill which reads as follows:

U.S. DEPARTMENT OF STATE,
Washington, DC, January 2, 1986.

Hon. PETER W. RODINO,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: I refer to your request for a report concerning the case of John Patrick Brady, Ann M. Brady, and Mark P. Brady, beneficiaries of H.R. 3154, 99th Congress.

The United States Embassy at Dublin, Ireland, which had adjudicated previous visa applications of Mr. Brady, has reported that the files relating to the beneficiary's visa applications have, apparently, been destroyed in accordance with record disposal regulations.

The bill provides for the beneficiaries of this bill to be treated as treaty traders under the provisions of section 101(a)(15)(E)(i) of the Immigration and Nationality Act and provides for their continuing eligibility for E-1 visa classification during any period in which John Patrick Brady is employed with Swiss Air Transport Company, Limited.

With best wishes,

Sincerely,

WILLIAM L. BALL III,
Assistant Secretary,
Legislative and Intergovernmental Affairs.

Mr. Frank, the author of the bill, provided the following statement in support of this legislation.

TESTIMONY OF HON. BARNEY FRANK ON BEHALF OF H.R. 3154

Mr. Chairman and members of the Subcommittee, thank you for giving me this opportunity to testify on behalf of H.R. 3154, a private immigration bill I have introduced on behalf of John Patrick Brady, Ann M. Brady, and Mark P. Brady. It is a very unusual bill which would remedy a very peculiar circumstance. I do not expect that the Subcommittee will ever again encounter any one requesting the relief found in this bill.

Let me very briefly outline the circumstances (I have submitted to the subcommittee the information required by the rules). Mr. Brady, and Irish citizen, originally came to the U.S. to work for Aer Lingus at Logan airport in Boston, and was in this country legally on a Treaty-Trader (E-1) visa. Ten years later he was offered a job with Swissair, and he requested approval from the INS of a change of

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employment. INS Boston approved this request the same day.

This was an error on the part of INS Boston; as you know, a Treaty-Trader visa can only be granted when the employee is of the same nationality as the employer. INS Boston incorrectly led Mr. Brady to believe that he could take the job with Swissair without losing his legal status in this country. Had he been told that he could not do so, he would not have changed jobs.

This mistake was not discovered until three years later, when his E-1 visa expired, and the U.S. Embassy in Dublin refused to renew it, saying that INS had made a mistake in allowing him to change jobs. Subsequently, the Bradys were admitted on visitors visas so that they might settle their affairs. INS has since extended a B-1 visa to the Bradys, but this will expire in March of 1986 and will not be extended. In the meantime Mr. Brady has been advised not to travel outside the country, because of the peculiarity of his status. This has caused him to miss four training sessions (to date) which are essential to his employment with Swissair.

All my bill would do is compensate for the original mistake made by the INS. It would allow Mr. Brady to work for Swissair on an E-1 visa. If INS had correctly advised him, he would be in this status now, only he would be working still for Aer Lingus. My bill would not confer any othr benefit. I think you will agree with me that this is the only fair thing to do. Furthermore, I think you will agree that this bill is not likely to lead to a flood of similar bills. Thank you for giving this your consideration.

The following additional information was provided:

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IMPORTANT NOTICE

- **A NONIMMIGRANT ALIEN WHO ACCEPTS UNAUTHORIZED EMPLOYMENT IS SUBJECT TO DEPORTATION.**
- Retain this permit in your possession except when required to submit same to the Immigration and Naturalization Service.
- You are permitted to remain in the U. S. for the time indicated.
- To remain past this period, without permission from immigration authorities, is a violation of law.

WHEN YOU LEAVE THE UNITED STATES

- By sea or air, surrender this permit to transportation line.
- Over Canadian border, surrender this permit to Canadian Immigration Officer.
- Over Mexican border, surrender this permit to United States Immigration Officer.

RECORD OF EXTENSIONS

To Transfer of Employment Office
Authorized Office
To Swiss air Office 8-5-81

DEPARTURE RECORD

Port:

Date:

Carrier:

To:
(Country of disembarkation)

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
ARRIVAL - DEPARTURE RECORD FORM I-94 (REV. 8-1-73) N
FORM APPROVED OMB NO. 43-R0496

SWISS AIR TRANSPORT CO., LTD.,
New York, July 21, 1981.

Re: Mr. John P. Brady, 22 Handel Road, Billerica, MA.

Mr. BOB HANSEN,
Chief of Immigration,
Logan International Terminal,
Boston, MA.

DEAR MR. HANSEN: Swissair wishes to make application to U.S. Immigration and Naturalization Service to change employer on visa to read Swissair and not Aer Lingus.

Mr. Brady's duties would be that of a D.C.S. Computer Operator Specialist, Reservations/Ticket Agent, Operation and Weight/Balance Coordinator, Passenger Handling Agent, as well as a Ramp Superior.

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For the past six years, Mr. Brady worked with Aer Lingus who is Swissair's handling agency at Logan Airport in Boston. He is highly experienced in Swissair's operation and aircraft/passenger handling procedures, as well as with Swissair's computers.

Thanking you for you consideration to our visa application change, we remain.

Very truly yours,

HANS SCHWEEBERGER,
Assistant Personnel Manager for North America.

Sworn to before me this 21st day of July 1981.

BUDGETARY INFORMATION

This legislation does not provide new budget authority and no estimate or comparison has been received from the Director of the Congressional Budget Office.

OVERSIGHT STATEMENT

The Committee exercises general oversight jurisdiction with respect to all immigration and nationality matters but no specific oversight is contemplated in this instance.

COMMITTEE RECOMMENDATION

Upon consideration of all the facts in this case, the Committee is of the opinion that H.R. 3154 should be enacted and accordingly recommends that the bill do pass.

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